



**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0198; Docket No. 2021-0053; Sequence No. 14]

**Information Collection; Certain Federal Acquisition Regulation Part 9 Requirements**

**AGENCY:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision concerning certain Federal Acquisition Regulation (FAR) part 9 requirements. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through February 28,

2022. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

**DATES:** DoD, GSA, and NASA will consider all comments received by **[Insert date 60 days after date of publication in the *Federal Register*.]**

**ADDRESSES:** DoD, GSA, and NASA invite interested persons to submit comments on this collection through <https://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or [GSAREgSec@gsa.gov](mailto:GSAREgSec@gsa.gov).

**Instructions:** All items submitted must cite OMB Control No. 9000-0198, Certain Federal Acquisition Regulation Part 9 Requirements. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](https://www.regulations.gov), approximately two-to-three days after submission to verify posting.

**FOR FURTHER INFORMATION CONTACT:** Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or [zenaida.delgado@gsa.gov](mailto:zenaida.delgado@gsa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. OMB control number, Title, and any Associated Form(s) :**

9000-0198, Certain Federal Acquisition Regulation Part 9 Requirements.

**B. Need and Uses**

DoD, GSA, and NASA are combining OMB Control Nos. for the Federal Acquisition Regulation (FAR) by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify burdens associated with a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is no redundant or unaccounted for burden placed on industry. Lastly, combining information collections in a given FAR part is also expected to reduce the administrative burden associated with processing multiple information collections.

This justification supports the revision of the expiration date of OMB Control No. 9000-0198 and combines it with the previously approved information collections under OMB Control Nos. 9000-0083 and 9000-0193, with the new title "Certain Federal Acquisition Regulation Part 9 Requirements". Upon approval of this consolidated information collection, OMB Control Nos. 9000-0083 and 9000-0193 will be discontinued. The burden requirements previously approved under the discontinued numbers will be covered under OMB Control No. 9000-0198.

This clearance covers the information that offerors and contractors must submit to comply with the following FAR requirements:

1. FAR 52.209-1, Qualification Requirements. This clause requires offerors to provide with their proposal: their name, the manufacturer's name, source's name, item's name, service identification, and test number (if known) for a proposed product or service that has already been determined to meet the qualification standards. If an offeror, manufacturer, source, product or service has met the qualification requirement but is not yet on a qualified products list, qualified manufacturers list, or qualified bidders list, this clause requires the offeror to submit evidence of qualification prior to award of a contract.

2. FAR 52.209-2, 52.209-10, and 52.212-3(n), Prohibition on Contracting with Inverted Domestic Corporations. FAR provision 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation, and its equivalent for commercial acquisitions at FAR 52.212-3(n), requires each offeror to represent whether it is, or is not, an inverted domestic corporation or a subsidiary of an inverted domestic corporation.

FAR clause 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations, requires contractors to promptly notify the contracting officer in the event the contractor becomes an inverted domestic corporation or a

subsidiary of an inverted domestic corporation during the period of performance of the contract.

3. FAR 52.209-5, 52.209-6, and 52.212-3(h), Debarment, Suspension, and other Responsibility Matters. FAR provision 52.209-5, Certification Regarding Responsibility Matters, and its equivalent for commercial acquisitions at FAR 52.212-3(h), require the disclosure of the following critical information by an offeror to be considered by the contracting officer in making a responsibility determination:

- Whether the offeror or any of its principals have been—
  - Debarred, suspended, proposed for debarment, declared ineligible for contract award;
  - Within a three-year period preceding their offer:
    - Convicted of or had a civil judgment rendered against them or indicted for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract, violation of Federal or State antitrust statutes relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal

criminal tax laws, or receiving stolen property;

- Notified of any delinquent Federal taxes in an amount that exceeds \$10,000 for which the liability remains unsatisfied;
- Had one or more contracts terminated for default by any Federal agency; or
- Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses identified above.

If the offeror has responded affirmatively to the certifications in the FAR provisions at 52.209-5 or 52.212-3(h), the offeror shall provide additional information if requested by the contracting officer.

The offeror shall also provide immediate written notice to the contracting officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Paragraph (c) of the FAR clause at 52.209-6, Protecting the Government's Interest When Subcontracting with Contractor's Debarred, Suspended, or Proposed for Debarment, requires the contractor to require each proposed subcontractor whose subcontract will exceed \$35,000, other than a subcontractor providing a commercially available off-the-shelf (COTS)

item, to disclose to the contractor in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Government.

Paragraph (d) of the FAR clause at 52.209-6 requires a corporate officer or designee of the contractor to notify the contracting officer, in writing, before entering into a subcontract (for other than COTS items) with a party that is debarred, suspended, or proposed for debarment. The written notice must include: the name of the subcontractor; why the subcontractor is debarred, suspended, or ineligible; the compelling reason(s) for doing business with the subcontractor; and how the contractor will protect the Government's interests when dealing with such subcontractor. For any subcontract subject to Government consent, contracting officers shall not consent to such subcontracts unless the agency head or a designee states in writing the compelling reasons for approving such subcontract.

4. FAR 52.209-7 and 52.209-9, Information Regarding Responsibility Matters and Updates to that Publicly Available Information. FAR provision 52.209-7, Information Regarding Responsibility Matters, requires each offeror to represent whether it has current active Federal contracts and grants with a total value greater than \$10 million. The provision also requires each offeror to post in the Federal

Awardee Performance and Integrity Information System (FAPIIS), as required by maintaining an active registration in the System for Award Management (SAM), information on whether the offeror and/or any of its principals has, or has not, within the past five years, in connection with the award to or performance by the offeror of a federal contract or grant, been the subject of a proceeding, at the Federal or State level, that resulted in:

- (a) A criminal conviction in the case of a criminal proceeding;
- (b) The finding of fault and liability in a civil proceeding resulting in the payment of \$5,000 or more in damages, restitution, reimbursement, fine or penalty;
- (c) The finding of fault and liability in an administrative proceeding resulting in the payment of a monetary fine or penalty of \$5,000 or more, or the payment of a reimbursement, restitution, or damages in excess of \$100,000; or
- (d) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgement of fault by the contractor if the proceeding could have led to any of the outcomes specified in (4)(a) through (c) above.

Paragraph (a) of the FAR clause 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters, requires contractors to update the information in



FAPIIS on a semiannual basis, throughout the life of the contract, by posting the information in SAM. Paragraph (c) of the FAR clause 52.209-9 informs contractors of their ability to provide feedback on information posted by the Government in FAPIIS and the procedure to follow in the event information exempt from public disclosure is slated to become publicly available information in FAPIIS.

5. FAR 52.209-11, 52.209-12, and 52.212-3(q), Prohibition on Contracting With Corporations with Delinquent Taxes or a Felony Conviction. FAR provision 52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, and its equivalent for commercial acquisitions at FAR 52.212-3(q), require offerors to represent whether the offeror is a corporation that-

- Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- Was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

FAR provision 52.209-12, Certification Regarding Tax Matters, require offerors proposing a total contract price that will exceed \$5.5 million (including options) to

certify that, to the best of the offeror's knowledge and belief, it -

- Has filed all Federal tax returns required during the three years preceding the certification;
- Has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and
- Has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

6. FAR 52.209-13, Violations of Arms Control Treaties or Agreements with the United States. Unless the offeror is providing evidence of a waiver or determination in accordance with paragraph (b) (2) of the FAR provision at 52.209-13, Violation of Arms Control Treaties or Agreements - Certification, paragraph (b) (1) of the provision requires offerors to certify that-

- The offeror does not engage and has not engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control,

nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state. The determinations are described in the most recent unclassified annual report provided to Congress pursuant to section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a); and

- No entity owned or controlled by the offeror is an entity organized under the laws of such country, that engages or has engaged in any activity that contributed to or is a significant factor in the President's or Secretary of State's determination that a foreign country is in violation of its obligations undertaken in any arms control, nonproliferation, or disarmament agreement to which the United States is a party, or is not adhering to its arms control, nonproliferation, or disarmament commitments in which the United States is a participating state.

Contracting officers use the collected information described above to determine an offeror's responsibility for contract award.

### **C. Annual Burden**

Respondents: 1,802,621.

Total Annual Responses: 1,953,229.

Total Burden Hours: 547,110.

**OBTAINING COPIES:** Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202-501-4755 or emailing [GSARegSec@gsa.gov](mailto:GSARegSec@gsa.gov). Please cite OMB Control No. 9000-0198, Certain Federal Acquisition Regulation Part 9 Requirements.

Janet Fry,  
Director,  
Federal Acquisition Policy Division,  
Office of Governmentwide Acquisition Policy,  
Office of Acquisition Policy,  
Office of Governmentwide Policy.

**BILLING CODE: 6820-EP**

[FR Doc. 2021-27240 Filed: 12/15/2021 8:45 am; Publication Date: 12/16/2021]